

Interview Summary

Application No.

09/097,243

Applicant(s)

Manne

Examiner

Rodney Fuller

Group Art Unit

2851

#113
Fuller
7/18/01

All participants (applicant, applicant's representative, PTO personnel):

(1) Rodney Fuller

(3) _____

(2) Don Lucas

(4) _____

Date of Interview Jul 18, 2001Type: a) ☐ Telephonic b) ☐ Video Conferencec) ☒ Personal [copy is given to 1) ☒ Applicant 2) ☐ applicant's representative]Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No. If yes, brief description:Claim(s) discussed 1 and 11

Identification of prior art discussed:

Martin (US 5,610,674)Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

See Attachment...

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) ☒ It is not necessary for applicant to provide a separate record of the substance of the interview (if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form, unless it is an
Attachment to a reply to an Office action.

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Interview Summary

The applicant discussed the arguments set forth in a proposed response, faxed to the examiner on July 16, 2001.

In regards to the 35 U.S.C. 103(a) rejection of claims 1-14 as being unpatentable over Martin (US 5,610,674), the applicant makes the argument that in the independent claims (claims 1 and 11) of the present invention "...recite specifically that a single conduit delivers that scented air to the user's nose. A single conduit has a number of advantages over the plurality of capillary system employed by Martin." (Underline emphasis added by applicant)

This initial argument was made in a previous Response to Office Action, dated October 6th, 2000. In the Office Action mailed December 8, 2000; the examiner stated in the remarks section that:

"The examiner maintains that although Martin discloses a 'plurality' of conduits it also reads on the claim limitations of claim 1 of a 'single conduit.' It is clear that a single conduit of Martin could be used by itself. Furthermore, it has been held that omission of an element and its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184."

The applicant makes a second argument (with respect to claim 11) that in the present invention is distinguishable from Martin because of the following:

"...the mixture of scented air occurs prior to delivery of the air to the user's nose. In contrast, Martin teaches that each of the individual capillary tubes delivers one

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The examiner maintains that Martin also discloses this limitation. In column 8, lines 4-7, Martin states "...the fragrances can also be produced further away from the nose and dispersed in a similar manner without departing from the spirit and scope of the invention."

Hence, the examiner has considered the applicant's arguments and would tentatively maintain the rejections based on the proposed amendment.

The examiner noted that Stern (US 2,562,959) may be a usable reference in a 103 rejection in that the apparatus might possibly be made smaller and portable.

The examiner also noted that he will need to review the parent applications which were previously allowed.

The applicant suggest that the portability of the present device is a distinguishing feature over Martin in that the scent apparatus of Martin is associated with a video system and there would not be a reason to separate the systems. The examiner tentatively agrees that this may be a **distinguishing feature along with the feature of mixing the scents away from the person's nose.** The examiner will re-review Martin, the parent references, and the other cited prior art.

REF

April 25, 2001